

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Bryan Tew,

Plaintiff,

v.

Case No. 1:11-cv-554

Federal Bureau of Investigation,

Judge Michael R. Barrett

Defendant.

**ORDER**

This matter is before the Court on the Report and Recommendation ("Report") entered by Magistrate Judge Karen L. Litkovitz on August 22, 2011 (Doc. 8). Proper notice has been given to the parties under Rule 72(b) of the Federal Rules of Civil Procedure, including notice that the parties would waive further appeal if they failed to file objections to the Report in a timely manner.<sup>1</sup> See *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981). No objections to the Report have been filed.

Although proper notice was served upon Plaintiff, it was returned as undeliverable due to Plaintiff's failure to apprise the Court of his change of address. (Doc. 9.) By failing to keep the Court informed of his current address, Plaintiff demonstrates a lack of prosecution of his action. See, e.g., *Theede v. U.S. Dep't. of Labor*, 172 F.3d 1262, 1265 (10th Cir. 1999) (holding that failure to object to a magistrate judge's report and recommendation because of party's failure to bring to the court's attention a change in address constitutes failure to object in a timely manner, and holding that because the report was mailed to the last known address, it was properly served and party waived right to appellate review); see also *Jourdan v.*

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<sup>1</sup> Notice was attached to the Report regarding objections. (Doc. 8, 5.)

*Jabe*, 951 F.2d 108, 110 (6th Cir. 1991) (holding that a pro se litigant has an affirmative duty to diligently pursue the prosecution of his cause of action); *Barber v. Runyon*, No. 93-6318, 1994 WL 163765, at \*1 (6th Cir. May 2, 1994) (holding that a pro se litigant has a duty to supply the court with notice of any and all changes in his address).

Having reviewed this matter de novo pursuant to Fed. R. Civ. P. 72(b), this Court finds the Report to be correct. It is **ORDERED** that the Report is hereby **ADOPTED**. As the Report recommends (Doc. 8, 3), Plaintiff's complaint is **DISMISSED** for failure to state a claim upon which relief may be granted. Additionally, the Court certifies, pursuant to 28 U.S.C. § 1915(a), that any appeal of this Order would not be taken in good faith, and therefore, Plaintiff is denied leave to appeal *in forma pauperis*. See *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999), overruling in part *Floyd v. United States Postal Serv.*, 105 F.3d 274, 277 (6th Cir. 1997).

**IT IS SO ORDERED.**

s/Michael R. Barrett  
United States District Judge